

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

ROBERT L. MACKEY,

Petitioner,

vs.

WARDEN, LEBANON
CORRECTIONAL INSTITUTION,

Respondent.

:

:

Case No. 09-CV-255

:

JUDGE WALTER HERBERT RICE

:

DECISION AND ENTRY SUSTAINING IN PART, OVERRULING IN PART
AND DECLARING MOOT IN PART PETITIONER'S MOTION TO
CLARIFY HIS RESPONSE TO RESPONDENT'S MOTION TO DISMISS
THE HABEAS CORPUS PETITION AS TIME-BARRED; MOTION TO
STRIKE AND/OR IN THE ALTERNATIVE TO FILE A SUR-REPLY (DOC.
#11)

The Petitioner's Motion to Clarify His Response to Respondent's Motion to
Dismiss the Habeas Petition as Time-barred; Motion to Strike and/or in the
Alternative to File a Sur-Reply (Doc. #11) is ruled upon as follows:

1. Petitioner's Motion to Clarify His Response to the Respondent's
Motion to Dismiss the Petition as Time-barred is sustained. Said
response is that he is not attempting to add any new claim or ground
to his Petition;

2. Petitioner's Motion to Strike the portions of Respondent's reply which address the merits of Grounds 3 and 5 (rather than the statute of limitations issue) is overruled, given that said portions do not constitute sufficient grounds to strike a memorandum within the meaning of the applicable law; and
3. Petitioner's alternative Motion, for Leave to File a Limited Sur-reply if the Court does wish to consider the actual merits of Grounds 3 and 5 at this time is overruled as moot.

September 27, 2010



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record.